



ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Application of Crandall et al. :
Application No. 10/817,181 : Decision on Petition
Filing Date: April 2, 2004 :
Attorney Docket No. 52943 :

This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 5, 2005, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on September 6, 2005. A Notice of Abandonment was mailed on December 28, 2005.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of \$750. Petitioner has submitted a reply to the non-final Office action mailed June 5, 2005. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Petitioner submitted \$510 for a three-month extension of time. Payment for an extension of time is unnecessary when reviving an application. Therefore, the \$510 has been credited to deposit account no. 18-2220.

Attorney Kevin Barner signed the instant petition. Barner was not an attorney of record at the time the application became abandoned. Therefore, it appears Barner was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Barner that the entire delay was unintentional is being treated as having been made

as the result of a reasonable inquiry into the facts and circumstances of such delay.¹ In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Technology Center Art Unit 2879 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.



Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

¹ See *Changes to Patent Practice and Procedure*, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).